

**MINUTES  
DEPARTMENT OF HEALTH  
BOARD OF OSTEOPATHIC MEDICINE  
General Business Meeting**

**The Crowne Plaza  
1201 Riverplace Blvd.  
Jacksonville, FL 32207  
(904) 398-8800**

**May 17-18, 2007**

**Thursday, May 17, 2007**

**CALL TO ORDER**

The meeting was called to order by Dr. Rodriguez, Chairperson, at 4:30pm. Dr. Those present for all or part of the meeting included the following:

**MEMBERS PRESENT:**

Richard Rodriguez, DO, Chair  
Robert Fedor, DO, Vice Chair  
Robert McCann, DO  
Nadine Swan – Consumer Member

**BOARD STAFF PRESENT:**

Pamela King, Executive Director  
Christy Robinson, Program Administrator

**BOARD COUNSEL:**

Michael Flury, Esquire

**COURT REPORTER:**

Statewide Reporting Service  
Beth Masters  
904-353-7706

**DEPARTMENT OF HEALTH:**

Blake Hunter, Esquire

**OTHERS PRESENT:**

Judy Rivenbark, MD - PRN

**Please note that the meeting minutes reflect the actual order of the agenda items as discussed and may differ from the agenda outline.**

**REVIEW AND APPROVAL OF MINUTES**

**Tab 1 – Minutes from February 23-24, 207 Board Meeting**

**Action Taken:** Dr. Fedor moved to APPROVE the minutes. Ms. Swann seconded the motion, which passed unanimously.

**NEW DISCIPLINARY CASES**

**Tab 2 – Curtis E. Wilkinson, D.O. – Settlement Agreement – DOH Case #2002-14458 & 2002-22902**

Allegations of Complaint: 459.015(1)(x)- failing to practice by prevailing peer standard (2 counts); 459.015(1)(o)- medical records violation; 459.015(1)(t)- prescribing outside the practice of medicine; 459.015(1)(m)- fraudulent misrepresentation in the practice of medicine

Dr. Wilkinson was present and represented by Lawrence Metsch, Esquire. Mr. Hunter represented the department and presented the case to the Board.

**Action Taken:** After much discussion, Dr. McCann moved to ACCEPT the settlement agreement as presented:

- Reprimand
- \$7500.00 Fine
- \$12,500.00 in Costs
- Probation for 1 year to include:
  - Indirect Supervision
  - Quarterly Reports
- 100 hours of community service
- Compliance with the Board's telemedicine rule
- USF drug course
- FMA Medical Records course

Dr. Fedor seconded the motion, which passed unanimously. The Board also clarified that all of the continuing education hours and community service hours required for this settlement agreement cannot be the hours used to comply with the previous settlement agreement.

### **BOARD CHAIRMAN'S REPORT – Richard Rodriguez, DO**

Dr. Rodriguez indicated that he had nothing to report at this time.

### **BOARD COUNSEL REPORT – Michael Flury, Esquire**

#### **Tab 3 – May 2007 Rules Report**

Mr. Flury updated the Board on the status of the following rules and requested action where appropriate.

#### 64B15-9.006 – Probable Cause Determination

Effective 11/14/06

#### 64B15-13.001 – Continuing Education for Biennial Renewal

Effective 1/29/07

#### 64B15-14.005 – Standards for the Use of Controlled Substances for Pain

Effective 11/14/06

#### 64B15-19.002 - Violations and Penalties

Effective 11/27/06 (first change)

#### 64B15-19.002 – Violations and Penalties

Effective 11/14/06 (second change)

#### 64B15-14.011 – Qualifications of Physicians who Treat Sex Offenders

Rule workshop to be held later in the meeting.

#### 64B15-19.009 – Submission of Malpractice Record

Rule workshop to be held later in the meeting.

#### 64B15-6.003 – Physician Assistant Licensure

No Action (withdrawn)

64B15-6.0035 – Physician Assistant Licensure Renewal and Reactivation

No action (withdrawn)

64B15-7.001 – Anesthesiologist Assistant Licensure Renewal and Reactivation

No action (withdrawn)

64B15-7.003 – Application for Anesthesiologist Assistants

No action (withdrawn)

64B15-9.007 – Forms and Instructions

No action.

**Tab 40 - Review of 64B15-7.0101 – Standard Terms Applicable to Orders**

**Action Taken:** Dr. McCann moved to notice the rule for development. Dr. Fedor seconded the motion, which passed unanimously.

**Tab 41 - Review of 64B15-7.0102 – Probation Variables**

**Action Taken:** Dr. Fedor moved to notice the rule for development. Dr. McCann seconded the motion, which passed unanimously.

**Tab 42 - Review of 64B15-6.0112 – Standard Terms Applicable to Orders**

**Action Taken:** Dr. McCann moved to notice the rule for development. Dr. Fedor seconded the motion, which passed unanimously.

**Tab 43 - Review of 64B15-6.0113 – Probation Variables**

**Action Taken:** Dr. McCann moved to notice the rule for development. Dr. Fedor seconded the motion, which passed unanimously.

**EXECUTIVE DIRECTORS REPORT – Pamela King**

**Tab 4 – 2006 Annual Summary of Board Actions**

Ms. King gave a brief overview of the FSMB's summary of Board actions.

**No Tab** – Ms. King noted that the Board was this year's recipient of the Administrators in Medicine's Best of Boards Award for their activities related to communication and outreach.

**COUNCIL ON PHYSICIAN ASSISTANTS – Ronald Burns, DO**

**Tab 5 - February 1, 2007 Meeting Minutes**

Informational only.

**ANESTHESIOLOGIST ASSISTANT COMMITTEE – Ronald Burns, DO**

**Tab 6 - February 1, 2007 Meeting Minutes**

Informational only.

**LEGISLATIVE UPDATE**

**Tab 44 – 2007 Legislative Update and Summary**

Ms. King provided the Board with an overview of the legislation that passed that would be of interest to the healthcare profession. In particular she noted that the Board's streamlining of licensure language had passed.

## **BUDGET REPORT**

### **Tab 7 – Cash Balance Report Ending December 31, 2006**

Dr. Rodriguez advised the Board that they continued to do well financially.

## **EXPERT WITNESS APPLICATIONS**

### **Tab 8 - Mary E. Shriver, D.O.**

**Action Taken:** After the review of the applicant's CV, Dr. Fedor moved to APPROVE the applicant for the Expert Witness program. Ms. Swan seconded the motion, which passed unanimously.

### **Tab 9 - John C. Pellosie, Jr., D.O., MPH**

**Action Taken:** After the review of the applicant's CV, Dr. Fedor moved to APPROVE the applicant for the Expert Witness program. Ms. Swan seconded the motion, which passed unanimously.

### **Tab 10 - John M. Petersen, D.O., FACG, FACP**

**Action Taken:** After the review of the applicant's CV, Dr. McCann moved to APPROVE the applicant for the Expert Witness program. Dr. Fedor seconded the motion, which passed unanimously.

## **GENERAL BUSINESS / CORRESPONDENCE**

### **Tab 11 - Notice of Inpatient Rulemaking from AHCA**

Informational only.

### **Tab 12 - PRN Monthly Reports**

Informational only.

### **No Tab - Correspondence from JAPC Re: Agency Tolling**

Informational only.

### **Tab 45 - DOH Request for Comments on Lead Poisoning Testing on Children under Age 6**

After discussion it was the consensus of the Board to be in support of this initiative. The Board directed staff to draft a letter indicating their support of the premise of the proposed language.

### **No Tab - FSMB Annual Meeting Update**

Dr. Fedor gave a brief overview of the FSMB annual meeting. He noted that he was elected onto the Nominating Committee and that Dr. Andriole was elected to the Board of Directors.

## **LICENSURE LIST**

### **Tab 13 – Ratification of Approval of Licenses Issued 1/19/07 – 4/12/07**

**Action Taken:** Dr. Fedor moved to APPROVE the list as presented. Dr. McCann seconded the motion, which passed unanimously.

## **VOLUNTARY RELINQUISHMENT OF LICENSURE**

### **Tab 14 – Licensees Seeking Relinquishment with no Pending Discipline**

**Action Taken:** Dr. McCann moved to APPROVE the list as presented. Dr. Fedor seconded the motion, which passed unanimously.

**NEW BUSINESS**

No Tab – Dr. Fedor reiterated the many benefits of attending the FSMB annual meeting and indicated that all members should attend in the future, if possible.

**OLD BUSINESS**

**ADJOURNED @ 5:30 pm**

**Saturday, November 18, 2006**

**CALL TO ORDER**

The meeting was called to order by Dr. Rodriguez, Chairperson, at 9:00 am.

**RULES WORKSHOP**

**Tab 15 – Rule Workshop on 64B15-19.009 – Submission of Malpractice Record**

Ms. Carol Lanfri, Esquire explained the request for the rules workshop and provided the Board with some potential language to alleviate her concerns. Mr. Flury also advised the Board of some concerns that JAPC had with licensees not being able to comply with the timeline listed in the Board's current language.

**Action Taken:** After much discussion, Dr. Fedor moved to APPROVE the following changes to the language:

- (1) All physicians licensed pursuant to Chapter 459, F.S., shall provide the Board of Osteopathic Medicine a copy of the record of any finding of medical malpractice resulting from a civil or administrative proceeding, ~~entered against the licensee in any jurisdiction~~ involving an incident that occurred on or after November 2, 2004 within ~~60~~ 180 days of entry of the final judgment or order, or within 180 days of the effective date of this rule, whichever is later. The record shall be sent to the Board of Osteopathic Medicine, 4052 Bald Cypress Way, BIN-CO6, Tallahassee, Florida 32399.
- (2) The record shall include the official transcript of the civil or administrative proceeding resulting in a finding of medical malpractice, excluding any jury selection transcript, all evidence admitted or copies of evidence if original is not available, those matters officially recognized by the civil or administrative tribunal, and the final order or judgment reported or issued by the tribunal.
- Reference to 459.005 FS. As Specific Authority cited is deleted.

Ms. Swan seconded the motion, which passed unanimously.

**Tab 16 – Rule Workshop on 64B15-14.011 – Qualifications of Physicians Who Treat Sex Offenders**

Mr. Flury advised the members that because this rule workshop was not properly noticed in the Florida Administrative Weekly, they could not hold a workshop on the rule at this time. Ms. Lanfri advised that she was withdrawing her request for a workshop at this time.

**PETITION FOR EXEMPTION FROM DISQUALIFICATION**

**Tab 17 - Alfred Chapman, D.O.**

Dr. Chapman was presented and represented by Edwin Bayo, Esquire. Dr. Rivenbark was also present and advised the members that Dr. Chapman remained in full compliance with his PRN contract.

**Action Taken:** After Mr. Bayo explained the need for the petition, Dr. Fedor moved to GRANT the Petition for Exemption from Disqualification. Ms. Swan seconded the motion, which passed unanimously.

## **PROBATION REVIEW**

### **Tab 18 – Paul Elliott, DO – Appearance with Proposed Monitor**

Dr. Elliott was present and represented by Edwin Bayo, Esquire. Dr. Elliott's proposed monitor, John Simons, DO was also present. Ms. King advised the members that in addition to the approval of the monitor, the Board would need to accept or reject the continuing education hours submitted by Dr. Elliott.

**Action Taken:** After much discussion, Dr. Fedor moved to accept the continuing education hours. Dr. McCann seconded the motion, which passed unanimously. Dr. Fedor then moved to approve the monitor and asked the monitor to confirm the community service hours previously completed at his office. Dr. McCann seconded the motion, which passed unanimously.

### **Tab 19 – Barry Jack Kaplan, D.O. – Final Probationary Appearance**

Dr. Kaplan was present without counsel. Dr. Kaplan was required to make his final appearance before the Board prior to the termination of his probation.

**Action Taken:** After discussion, Dr. McCann moved to APPROVE the final appearance. Dr. Fedor seconded the motion, which passed unanimously.

## **CONDITIONAL LICENSE REVIEW**

### **Tab 20 – Melvin Bishow, DO**

Dr. Bishow was not present but was represented by Jason Winn, Esquire. Mr. Winn asked the Board to clarify the term of probation for Dr. Bishow. The Board clarified that Dr. Bishow was to be on probation for a period of 12 months.

**Action Taken:** After much discussion, Dr. Fedor moved to APPROVE the quarterly monitoring reports. Ms. Swan seconded the motion, which passed unanimously.

## **NEW DISCIPLINARY CASES**

### **Tab 21 - Richard Allen Hill, D.O. - Informal Hearing - Case #2005-62336**

Allegations of Complaint: 459.015(1)(c)- convicted of a crime related to the practice (2 counts)

The respondent was present and represented by Edwin Bayo, Esquire. Ms. O'Brien represented the department and presented the case to the Board. After discussion, Dr. Fedor moved to proceed with the Informal Hearing. Ms. Swan seconded the motion which passed unanimously. Dr. Fedor then moved to adopt the Findings of Facts in the case. Ms. Swan seconded the motion, which passed unanimously. Dr. Fedor moved to adopt the conclusions of law as presented in the administrative complaint. Ms. Swan seconded the motion, which passed unanimously.

**Action Taken:** The penalty in this case was discussed during Tab 22.

### **Tab 22 - Richard Allen Hill, D.O. – Informal Hearing - Case #2006-06296**

Allegations of Complaint:

The respondent was present and represented by Edwin Bayo, Esquire. Ms. O'Brien represented the department and presented the case to the Board. After discussion, Dr. Fedor moved to proceed with the Informal Hearing. Ms. Swan seconded the motion which passed unanimously. Dr. Fedor then moved to adopt the Findings of Facts in the case. Ms. Swan seconded the motion, which passed unanimously. Dr. Fedor moved to adopt the conclusions of law as presented in the administrative complaint. Ms. Swan seconded the motion, which passed unanimously.

**Action Taken:** After much discussion, Dr. McCann moved to impose the following penalty for case #s 2005-62336 and 2006-06296:

- Revocation

Ms. Swan seconded the motion, which passed with Dr. Fedor opposed.

## **Break**

**Tab 21 - Richard Allen Hill, D.O. - Informal Hearing - Case #2005-62336 – Revisit**

**Tab 22 - Richard Allen Hill, D.O. – Informal Hearing - Case #2006-06296 - Revisit**

Mr. Bayo asked the Board to clarify if the revocation in the above cases was permanent or if the respondent could reapply for licensure in the future.

**Action Taken:** After discussion, Dr. Fedor moved make the following clarification regarding the revocation in the above cases:

- The license is revoked with the ability to reapply for licensure in the future of the Board has rules allowing reapplication.

Ms. Swan seconded the motion, which passed with Dr. McCann opposed.

**Tab 23 - Frank S. Miles, Jr., D.O. – Informal hearing - Case #2006-28440**

Allegations of Complaint: 459.015(1)(bb)- violate an order of the Board

Dr. Miles was present without counsel. Mr. Hunter represented the department and presented the case to the Board. After discussion, Dr. McCann moved to proceed with an Informal Hearing and deny the respondent a Formal Hearing. Ms. Swan seconded the motion which passed unanimously. Dr. McCann then moved to adopt the findings of fact in the case. Dr. Fedor seconded the motion, which passed unanimously. Dr. McCann moved to adopt the conclusions of law as presented in the administrative complaint. Ms. Swan seconded the motion, which passed unanimously.

**Action Taken:** After discussion, Dr. Fedor moved to impose the following penalty: Voluntary Relinquishment of licensure without the ability to reapply and payment of all fines and costs. The motion died for lack of a second. After additional discussion, Ms. Swan moved to IMPOSE the following penalty:

- Revocation
- \$235.49 in costs

Dr. McCann seconded the motion, which passed with Dr. Fedor opposed.

**Tab 24 - Steven K. Allen, D.O. – Settlement Agreement - Case #2006-43951**

Allegations Complaint: 459.015(1)(pp)- violate a law or rule of the Board by violating 64B15-13.001- failing to comply with a continuing education audit

The respondent was not present or represented by counsel. The respondent was previously granted a waiver of his appearance by the Board Chair. Mr. Hunter represented the department and presented the case to the Board. Probable cause was waived in this case.

**Action Taken:** After discussion, Dr. McCann moved ADOPT the Settlement Agreement as presented:

- Letter of Concern
- \$1000.00 Fine
- \$834.49 in Costs
- Completion of continuing education as follows: 20 hours of AOA Category 1, 1 hour HIV/AIDS, 1 hour of Domestic Violence, 1 hour of Laws and Rules, 1 hour of laws and rules relating to the use and abuse of controlled substances, 1 hour Risk Management and 2 hours of Medical Errors

Dr. Fedor seconded the motion, which passed unanimously.

**Tab 25 - Roderick T. Beaman, D.O. – Settlement Agreement - Case #2005-57810**

Allegations of Complaint: 459.015(1)(o)- medical records violation; 459.015(1)(t)- prescribing outside the practice of medicine; 459.015(1)(x)- failing to practice by prevailing peer standard

The respondent was present and represented by William Huseman, Esquire. Mr. Hunter represented the department and presented the case to the Board.

**Action Taken:** After discussion, Dr. Fedor moved ADOPT the Settlement Agreement as presented

- Letter of Concern
- \$7500.00 Fine within 6 months of the Final Order
- \$2833.52 in costs within 6 months of the Final Order
- Completion of the USF Drug Course
- Completion of the FMA Medical Records Course

Dr. McCann seconded the motion, which passed unanimously.

**Tab 26 - Joan W. Bernstein, P.A., Case #2006-18281**

This case was previously granted a continuance by the Board Chair.

**Tab 27 - Herbert M. Fichman, D.O. – Settlement Agreement - Case #2006-35868**

Allegations of Complaint: 459.015(1)(b)- being disciplined in another state

The respondent was present without counsel. Mr. Hunter represented the department and presented the case to the Board. Probable cause was waived in this case.

**Action Taken:** After discussion, Dr. Fedor moved to ADOPT the Settlement Agreement as presented:

- Letter of Concern
- \$2500.00 fine
- \$144.95 in Costs
- Completion of a Laws and Rules course

Dr. McCann seconded the motion, which passed unanimously.

**Tab 28 – Stanford Lubeck, D.O. – Settlement Agreement - Case #2007-01475**

Allegations of Complaint: 459.015(1)(pp)- violate a law or rule of the Board by violating 64B115-13.001-failing to comply with a continuing education audit

The respondent was present without counsel. Mr. Hunter represented the department and presented the case to the Board. Probable cause was waived in this case.

**Action Taken:** After discussion, Dr. Fedor moved to REJECT the Settlement Agreement as presented. Ms. Swan seconded the motion, which passed unanimously. Dr. Fedor then moved to OFFER the following COUNTER SETTLEMENT AGREEMENT:

- Letter of Concern
- \$484.54 in costs
- Completion of the following continuing education: 20 hours of AOA Category 1, 1 hour of Laws and Rules, 1 hour of Risk Management and 1 hour on the use and abuse of controlled substances

Dr. McCann seconded the motion, which passed unanimously.

Both parties agreed to the terms of the counter offer for the record.

**Tab 29 - Jacqueline F. Royce, D.O. – Settlement Agreement - Case #2006-27437**

Allegations of Complaint: 459.015(1)(d)- advertising violation (2 counts)

The respondent was present without counsel. Mr. Hunter represented the department and presented the case to the Board.

**Action Taken:** After discussion, Dr. McCann moved to ADOPT the Settlement Agreement as presented:

- Letter of Concern
- \$5000.00 Fine
- \$734.52 in Costs
- Completion of a Laws and Rules course

Ms. Swan seconded the motion, which passed unanimously.

**Tab 30 – Saleem I. Sharar, P.A. – Settlement Agreement - Case #2006-14524**

Allegation of Complaint: 456.072(1)(o)- practice beyond the scope of practice; 456.072(1)(cc)- violate a law or rule of the Board; 459.015(1)(x)- practice below the prevailing peer standard; 459.015(1)(t)- prescribing outside the practice; 459.015(1)(o)- medical records violation

The respondent was present with Greg Daniels, Esquire. Mr. Hunter represented the department and presented the case to the Board. Probable cause was waived in this case.

**Action Taken:** After much discussion, Dr. Fedor moved to ADOPT the settlement agreement as presented:

- Reprimand
- \$10,000.00 Fine within 2 years of the Final Order
- \$4880.80 in costs within 2 years of the Final Order
- Completion of 100 hours of community service within 2 years of the Final Order
- Suspension for 3 years with the ability to request reinstatement after 18 months
- Probation for 3 years upon reinstatement to include: Indirect supervision, quarterly reports, 100% patient record review, and triplicate prescription pads
- Completion of the FMA Medical Records course
- Completion of 5 hours of continuing education in prescribing
- Must perform a lecture at a Physician Assistant school within 6 months of the Final Order

Ms. Swan seconded the motion, which passed with Dr. McCann opposed.

**Break for Lunch**

**Tab 31 – Craig Bammer, D.O. – Default/Waiver - Case #2006-03107 & 2006-23343**

Allegations of Complaint: 456.072(1)(v)- failing to comply with profiling and credentialing;  
456.072(1)(w)- failing to report the conviction of a crime within 30 days

The respondent was not present or represented by counsel. Mr. Hunter represented the department and presented the case to the Board. Dr. Fedor moved to find that the respondent was in default and waived his rights to a hearing. Dr. McCann seconded the motion, which passed unanimously. Dr. Fedor moved to adopt the findings of facts in the case. Dr. McCann seconded the motion, which passed unanimously. Dr. Fedor moved to adopt the conclusions of law as provided in the administrative complaint. Dr. McCann seconded the motion, which passed unanimously.

**Action Taken:** After discussion, Dr. Fedor moved to IMPOSE the following penalty:

- Revocation
- \$3026.88 in Costs

Dr. McCann seconded the motion, which passed unanimously.

**LICENSURE APPEARANCES**

**Tab 32 – Anthony Vu Huynh, D.O.**

Dr. Huynh was present without counsel. Dr. Huynh was asked to appear before the Board to discuss his application, training and certification exam. Ms. Robinson noted for the record that Dr. Huynh was currently completing his AOA rotating internship.

**Action Taken:** After much discussion, Dr. Fedor moved to GRANT the application for licensure contingent upon the following:

- Successful completion of the AOA rotating internship
- Correction to question #19 on the Application for Licensure

Dr. McCann seconded the motion, which passed unanimously.

**Tab 34 - Louis John Manley, D.O.**

Dr. Manley was present without counsel. Dr. Manley was asked to appear before the Board to discuss his application, examination and practice activities. Ms. Robinson clarified that Dr. Manley had previously passed the Florida osteopathic licensure exam.

**Action Taken:** After much discussion, Dr. Fedor moved to CONDITIONALLY approve the application for licensure contingent upon the following:

- Prior to licensure, completion of the UF Cares/CAPS competency evaluation program or the FSMB competency evaluation and advocacy for licensure.

Dr. McCann seconded the motion, which passed unanimously.

**Tab 35 - Kasey Christopher Nelson, D.O**

This applicant was previously granted a continuance by the Board Chair.

**Tab 36 - Rashid Samiya, D.O.**

Dr. Rashid was present without counsel. Dr. Rashid was asked to appear before the Board to discuss her failure to complete an AOA approved rotating internship.

**Action Taken:** After much discussion, Dr. Rashid requested to WITHDRAW her application for licensure.

**Tab 37 - Steven J. Svabek, D.O.**

This applicant was previously granted a continuance by the Board Chair.

**Tab 38 – Charles E. Truthan, D.O.**

Dr. Truthan was present without counsel. Dr. Truthan was asked to appear before the Board to discuss his application and practice activities.

**Action Taken:** After much discussion, Dr. McCann moved to CONDITIONALLY approve the application for licensure contingent upon the following:

- Prior to licensure and within 1 year of the Final Order, completion of the UF Cares/CAPS competency evaluation program or the FSMB competency evaluation and advocacy for licensure.
- Appearance before the Board upon completion of the evaluation

Dr. Fedor seconded the motion, which passed unanimously.

**Tab 33 - Steven H. Kahn, D.O.**

Dr. Kahn was present without counsel. Dr. Kahn was asked to appear before the Board to discuss his application and his failure to disclose prior criminal charges.

**Action Taken:** After much discussion, Dr. Fedor moved to APPROVE the application for licensure. Dr. McCann seconded the motion, which passed unanimously.

**Tab 39 - William Theodore Raue, D.O.**

The applicant was not present or represented by counsel. The applicant submitted a request to withdraw his application for licensure.

**Action Taken:** After discussion, Dr. Fedor moved to approve the request to WITHDRAW the application for licensure. Dr. McCann seconded the motion, which passed unanimously.

**Adjourn @3:00**